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LAW OFFICES OF  
WILLIAM J. FRANKLIN,  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

1919 PENNSYLVANIA AVENUE, N.W.  
SUITE 300  
WASHINGTON, D.C. 20006-3404

(202) 736-2233  
TELECOPIER (202) 452-8757  
AND (202) 223-6739

July 8, 1994

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Via Messenger

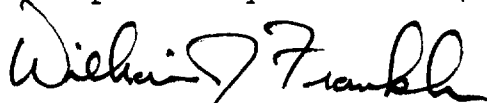
Re: **GEN Docket No. 93-253**  
Implementation of Section 309(j)  
of the Communications Act

Dear Mr. Caton:

Submitted herewith on behalf of the Association of Independent Designated Entities ("AIDE") are an original plus eleven (11) copies of its Comments on Oppositions to Petitions for Reconsideration of the Second Report and Order in the above-referenced docket.

Please contact my office directly with any questions or comments concerning the attached.

Respectfully submitted,



William J. Franklin  
Attorney for the Association  
of Independent Designated  
Entities

Encs.  
cc: Association of Independent  
Designated Entities  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Implementation of Section 309(j) ) PP Docket No. 93-253  
of the Communications Act )  
 )  
Competitive Bidding )  
To: The Commission

COMMENTS FILED BY THE ASSOCIATION OF  
INDEPENDENT DESIGNATED ENTITIES  
ON OPPOSITIONS TO  
PETITIONS FOR RECONSIDERATION  
OF THE SECOND REPORT AND ORDER

The Association of Independent Designated Entities ("AIDE"), by its attorney and pursuant to Section 1.429(g) of the Commission's Rules, hereby comments on the Oppositions apparently filed with respect to the various Petitions for Reconsideration of the Commission's Second Report and Order in the above-captioned proceeding.<sup>1/</sup> AIDE timely filed one of those Petitions for Reconsideration. In its Petition, AIDE argued that the Second R&O has several errors of law or otherwise required reconsideration:

- The Commission's adoption of auction rules which apparently prohibit full settlements between mutually exclusive, auctionable applications violates Section 309(j) of the Communications Act. (Petition at 3-7).
- The Commission cannot limit its use of installment payments by Designated Entities to arbitrarily selected auctionable licenses. (Petition at 8-12).
- The Commission should modify its auction procedures to eliminate specific provisions which could well disadvantage Designated Entities. (Petition at 12-16).

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<sup>1/</sup> 9 FCC Rcd \_\_\_\_ (FCC 94-61, released April 20, 1994)  
("Second R&O").

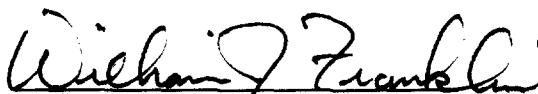
- The Commission should modify its recapture provisions to credit Designated Entities for their investments in auctionable licenses prior to sale or loss of designated-entity status, i.e., a finding of "enrichment" must preclude any recovery for "unjust enrichment." (Petition at 16-18).
- The Commission erred in imposing the same, substantial up-front payments from Designated Entities that are imposed on larger corporations as a prerequisite for competitive bidding eligibility. (Petition at 18-19)
- The Commission sidestepped AIDE's argument that vague references to proposed PCS application-processing rules are legally insufficient for a Notice of Proposed Rule Making. (Petition at 20-25).

To the best of AIDE's knowledge (based on received service copies), no party opposed any portion of AIDE's Petition.<sup>2/</sup>

Accordingly, the Association of Independent Designated Entities respectfully requests that the Commission reconsider the Second Report and Order as set forth in AIDE's Petition for Reconsideration.

Respectfully Submitted,

**ASSOCIATION OF INDEPENDENT  
DESIGNATED ENTITIES**

By:   
William J. Franklin  
Its Attorney

WILLIAM J. FRANKLIN, CHARTERED  
1919 Pennsylvania Avenue, N.W.  
Suite 300  
Washington, D.C. 20006-3404  
(202) 736-2233  
(202) 452-8757 (Telecopier)

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<sup>2/</sup> One party, however, supported AIDE's position with respect to full-market settlements. To the extent that some other party opposed AIDE's position but failed to serve the undersigned, AIDE reserves its rights to file a supplemental Reply.

**CERTIFICATE OF SERVICE**

I, Andrea Kyle, a secretary in the law firm of William J. Franklin, Chartered, hereby certify that a copy of the foregoing document was mailed via first-class U.S. Mail, postage prepaid, this 8th day of July, 1994, to the following:

Lawrence J. Movshin, Esq.  
Wilkinson Barker Knauer & Quinn  
1735 New York Avenue, N.W.  
Suite 600  
Washington, D.C. 20006

  
Andrea Kyle